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JOBS ACT OF 2011

MAY 23, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1745]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1745) to improve jobs, opportunity, benefits, and services for unemployed Americans, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Jobs, Opportunity, Benefits, and Services Act of 2011" or the "JOBS Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

99–006

TITLE I—REFORMS OF UNEMPLOYMENT COMPENSATION TO PROMOTE WORK AND JOB CREATION

SEC. 101. CONSISTENT JOB SEARCH REQUIREMENTS.

(a) IN GENERAL.—Section 303(a) of the Social Security Act is amended by adding at the end the following:

"(11)(A) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.

"(B) For purposes of this paragraph, the term 'actively seeking work' means, with respect to any individual, that such individual is actively engaged in a systematic and sustained effort to obtain work, as determined based on evidence (whether in electronic format or otherwise) satisfactory to the State agency charged with the administration of the State law.

"(C) The specific requirements that must be met in order to satisfy this paragraph shall be established by the State agency, and shall include at least the following:

"(i) Registration for employment services within 14 days after making initial application for regular compensation.

"(ii) Posting a resume, record, or other application for employment on such database as the State agency may require.

"(iii) Applying, in such manner as the State agency may require, for work which is similar to that previously performed by the individual, and which offers wages comparable to wages for similar work in the local labor market in which the individual resides or is actively seeking work.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

SEC. 102. PARTICIPATION IN REEMPLOYMENT SERVICES MADE A CONDITION OF BENEFIT RECEIPT.

(a) SOCIAL SECURITY ACT.—Paragraph (10) of section 303(a) of the Social Security Act is amended to read as follows:

"(10)(A) A requirement that, as a condition of eligibility for regular compensation for any week—

"(i) a claimant shall meet the minimum educational requirements set forth in subparagraph (B); and

"(ii) any claimant who has been referred to reemployment services shall participate in such services.

"(B) For purposes of this paragraph, an individual shall not be considered to have met the minimum educational requirements of this subparagraph unless such individual—

"(i) has earned a high school diploma;

"(ii) has earned the General Educational Development (GED) credential or other State-recognized equivalent (including by meeting recognized alternative standards for individuals with disabilities); or

"(iii) is enrolled and making satisfactory progress in classes leading to satisfaction of clause (ii).

"(C) The requirements of subparagraph (B) may be waived for an individual to the extent that the State agency charged with the administration of the State law deems such requirements to be unduly burdensome in the case of such individual.".

(b) INTERNAL REVENUE CODE OF 1986.—Paragraph (8) of section 3304(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(8) compensation shall not be denied to an individual for any week in which the individual is enrolled and making satisfactory progress in education or training which has been previously approved by the State agency;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

SEC. 103. STATE FLEXIBILITY TO PROMOTE THE REEMPLOYMENT OF UNEMPLOYED WORKERS.

Title III of the Social Security Act (42 U.S.C. 501 and following) is amended by adding at the end the following:

"DEMONSTRATION PROJECTS

"SEC. 305. (a) The Secretary of Labor may enter into agreements, with States submitting an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed—

"(1) to expedite the reemployment of individuals who establish initial eligibility for unemployment compensation under the State law of such State; or

"(2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

"(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor. Any such application shall, at a minimum, include—

"(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

"(2) if a waiver under subsection (c) is requested, the specific aspects of the project to which the waiver would apply and the reasons why such waiver is needed;

"(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

"(4) assurances (accompanied by supporting analysis) that the demonstration project would not result in any increased net costs to the State's account in the Unemployment Trust Fund;

"(5) a description of the manner in which the State—

"(A) will conduct an impact evaluation, using a control or comparison group or other valid methodology, of the demonstration project; and

"(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved; and

"(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require.

"(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or of paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

"(d) A demonstration project under this section—

"(1) may be commenced any time after the date of enactment of this section; and

"(2) may not be approved for a period of time greater than 3 years, subject to extension upon request of the Governor of the State involved for such additional period as the Secretary of Labor may agree to, except that in no event may a demonstration project under this section be conducted after the end of the 5-year period beginning on the date of enactment of this section.

"(e) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

"(1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and

"(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within such 30 days shall be deemed approved, and public notice of any approval under this sentence shall be provided within 10 days thereafter.

"(f) The Secretary of Labor may terminate a demonstration project under this section if the Secretary makes a final determination that the State has violated the substantive terms or conditions of the project.".

SEC. 104. REPEAL OF REGULATION REQUIRING HIGHER STATE TAXES.

(a) IN GENERAL.—Section 1202(b)(2) of the Social Security Act is amended—

(1) in subparagraph (A), by inserting "and" at the end;

(2) in subparagraph (B), by striking ", and" and inserting a period; and

(3) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of the date of enactment of this Act.

SEC. 105. RESTORE STATE FLEXIBILITY TO IMPROVE UNEMPLOYMENT PROGRAM SOLVENCY.

(a) IN GENERAL.—Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of the date of enactment of this Act.

SEC. 106. DATA STANDARDIZATION FOR IMPROVED DATA MATCHING.

(a) IN GENERAL.—Title IX of the Social Security Act is amended by adding at the end the following:

"DATA STANDARDIZATION FOR IMPROVED DATA MATCHING

"Standard Data Elements

"SEC. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group established by the Office of Management and Budget, and considering State perspectives, shall, by rule, designate standard data elements for any category of information required under title III or this title.

"(2) The standard data elements designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

"(3) In designating standard data elements under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate—

"(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

"(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

"(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

"Data Standards for Reporting

"(b)(1) The Secretary of Labor, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, shall, by rule, designate data reporting standards to govern the reporting required under title III or this title.

"(2) The data reporting standards required by paragraph (1) shall, to the extent practicable—

"(A) incorporate a widely-accepted, non-proprietary, searchable, computer-readable format;

"(B) be consistent with and implement applicable accounting principles; and

"(C) be capable of being continually upgraded as necessary.

"(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Business Reporting Language.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply after September 30, 2012 .

SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.

(a) USE OF UNEMPLOYMENT COMPENSATION TO REPAY OVERPAYMENTS.—Section 3304(a)(4)(D) of the Internal Revenue Code of 1986 and section 303(g)(1) of the Social Security Act are amended by striking "may" and inserting "shall".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act.

TITLE II—FORWARD FUNDING OF REMAINING FEDERAL UNEMPLOYMENT COMPENSATION FUNDS

SEC. 201. SPECIAL TRANSFERS TO ALL STATES.

(a) SPECIAL TRANSFERS IN FISCAL YEARS 2011 AND 2012.—Section 903 of the Social Security Act is amended by adding at the end the following:

"Special Transfers in Fiscal Years 2011 and 2012

"(h)(1) The Secretary of the Treasury shall transfer (as of the dates determined under paragraph (4)) from the extended unemployment compensation account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

"(2)(A) The amount to be transferred to a State under this subsection in any fiscal year is the amount derived by multiplying the applicable total dollar amount for such fiscal year by the applicable fraction for such State.

"(B) For purposes of subparagraph (A), the applicable total dollar amount is—

"(i) for fiscal year 2011, $12,800,000,000; and

"(ii) for fiscal year 2012, $18,200,000,000.

"(C) For purposes of subparagraph (A), the applicable fraction for a State is a fraction—

"(i) the numerator of which is the total amount of extended compensation and emergency unemployment compensation paid out by such State for weeks beginning in the 12-month period described in clause (ii); and

"(ii) the denominator of which is the total amount of extended compensation and emergency unemployment compensation paid out by all States for weeks beginning in the most recent 12-month period for which that information is available for all States as of May 1, 2011.

"(3)(A) Except as provided in subparagraph (B), amounts transferred to a State account pursuant to this subsection shall be used only in the payment of extended compensation and emergency unemployment compensation, in accordance with applicable provisions of Federal and State law (including agreements and implementing regulations) as in effect on May 1, 2011.

"(B) A State may, pursuant to specific legislation enacted by the legislative body of the State after the date of enactment of the JOBS Act of 2011, use money transferred to the State account of such State under this subsection for (i) the payment of unemployment compensation, (ii) the repayment of advances made to such State under section 1201 (including interest thereon), and (iii) reemployment services designed to enhance the rapid reemployment of unemployed workers (such as mandatory workshops, claimant assessments, resume preparation and job search assistance, wage subsidy programs, eligibility reviews, labor market information, development of a work-search plan, and training), if and only if—

"(I) the purposes and amounts are specified in the law;

"(II) the money is withdrawn and expended, for the purpose described in clause (i), (ii), or (iii) (as the case may be), after the date of enactment of the law; and

"(III) the use of the money is accounted for in accordance with standards established by the Secretary of Labor.

"(4) Transfers under this subsection shall—

"(A) to the extent that they relate to the amount set forth in paragraph (2)(B)(i), be made within 10 days after the date of enactment of this subsection; and

"(B) to the extent that they relate to the amount set forth in paragraph (2)(B)(ii), be made after September 30, 2011, and on or before October 10, 2011.".

(b) RULE OF CONSTRUCTION.—Nothing in section 903(b) of the Social Security Act shall be considered to apply with respect to any transfer under section 903(h) of such Act (as amended by this section).

(c) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendment made by this section.

SEC. 202. EMERGENCY UNEMPLOYMENT COMPENSATION TRANSITION RULES.

(a) REPEAL.—Section 4003 of the Supplemental Appropriations Act, 2008 is repealed.

(b) FINANCING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 is amended—

(1) in subparagraph (F), by striking "and" after the semicolon; and

(2) by adding after subparagraph (G) the following:

"(H) the amendment made by section 201 of the Jobs, Opportunity, Benefits, and Services Act of 2011; and".

(c) EFFECTIVE DATE OF REPEAL.—

(1) IN GENERAL.—The amendment made by subsection (a) shall be effective with respect to weeks ending after July 6, 2011.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to affect the reimbursability of any emergency unemployment compensation paid for a week ending before July 7, 2011.

SEC. 203. EXTENDED BENEFITS PROGRAM TRANSITION RULES.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) in subsection (a), by striking "January 4, 2012" and inserting "July 6, 2011";

(2) in subsection (b), by striking "January 4, 2012" and inserting "the date of enactment of the JOBS Act of 2011"; and

(3) by striking subsection (c).

(b) TERMINATION OF PROVISIONS RELATING TO TEMPORARY MODIFICATION OF EXTENDED BENEFIT INDICATORS.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended by section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111-312; 124 Stat. 3307), is amended—

(1) in subsection (d) (in the next to last sentence), by striking "December 31, 2011" and inserting "June 30, 2011"; and

(2) in subsection (f)(2), by striking "December 31, 2011" and inserting "June 30, 2011".

(c) SAVINGS PROVISION.—In the case of any State law which, as of the date of enactment of this Act, has been amended in conformance with the amendments made by subsection (a) or (b) of section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111-312; 124 Stat. 3307) and section 2005(a) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111-5; 26 U.S.C. 3304 note), the amendment made by subsection (a)(1) shall be disregarded for purposes of any provision of such State law which provides for a State "off" indicator or which otherwise provides for the termination of an extended benefit period by reason of the cessation of full Federal funding of sharable extended compensation or sharable regular compensation.

SEC. 204. EMERGENCY DESIGNATION.

The budgetary effects of this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 1745, as ordered reported by the Committee on Ways and Means on May 11, 2011, would make important reforms to the Unemployment Insurance (UI) program designed to help more unemployed individuals return to work quickly, while also giving States new flexibility in using temporary Federal unemployment program funds. To achieve these purposes, the bill amends relevant unemployment provisions of the Social Security Act, the Internal Revenue Code, the Supplemental Appropriations Act of 2008, the Assistance for Unemployed Workers and Struggling Families Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

Specifically, Title I of the legislation includes several reforms of the UI program designed to promote work, education and training, and program integrity, while Title II "forward funds" remaining temporary Federal unemployment funds to States. In Title I, Section 101 sets minimum job search requirements in all States for the first time. Section 102 requires participation in education and other reemployment services as a condition of benefit receipt for individuals most likely to have difficulty returning to work. Section 103 grants States new flexibility to operate cost-neutral "waiver" programs to promote faster returns to work for unemployed workers. Section 104 repeals a regulation that if left in place would result in higher State unemployment taxes on jobs in the years ahead. Section 105 allows States immediate flexibility to improve unemployment program solvency without having to resort to raising taxes, repealing a provision enacted in the 2009 stimulus law. Section 106 requires the U.S. Secretary of Labor to designate standard data elements for any category of information under Ti-

tles III or IX of the Social Security Act, in order to improve Unemployment Insurance administration program integrity. Section 107 improves the integrity of unemployment benefits by directing States to recover more unemployment benefit overpayments.

Section 201 transfers $31 billion in temporary Federal unemployment program funds to States in an equitable distribution to all States while providing new flexibility in how those funds can be used to assist the unemployed. Given those transfers, Section 202 provides necessary transition rules for one of the current Federal programs, the Extended Unemployment Compensation (EUC) program, while section 203 does the same for the Federal Extended Benefits (EB) program. Section 204 provides for an emergency designation related to the budgetary effects of the bill.

B. Background and the Need for Legislation

On May 5, 2011, Rep. David Camp (R–MI), Chairman of the House Committee on Ways and Means; Rep. Geoff Davis (R–KY), Chairman of the Subcommittee on Human Resources of the House Committee on Ways and Means; and Rep. Rick Berg (R–ND), a Member of the Subcommittee on Human Resources, introduced H.R. 1745, a bill to improve jobs, opportunity, benefits, and services for unemployed Americans, and for other purposes. The Committee on Ways and Means received the referral for the bill because the bill includes unemployment insurance provisions that fall within the jurisdiction of the Committee, including relevant provisions of the Social Security Act (SSA), the Internal Revenue Code (IRC), the Supplemental Appropriations Act of 2008, the Assistance for Unemployed Workers and Struggling Families Act, and the Federal-State Extended Unemployment Compensation Act of 1970. The Committee found three primary problems with the existing Unemployment Insurance system: first, it requires reforms to better help unemployed Americans prepare for and find jobs; second, rising unemployment insurance taxes on jobs are hindering job creation and hiring; and third, current federal funds are both poorly targeted and lack the flexibility needed to help unemployed individuals return to work sooner.

C. Legislative History

Background

H.R. 1745 was introduced on May 5, 2011, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up the bill on May 11, 2011, and ordered the bill as amended favorably reported.

Committee hearings

On February 10, 2011, the Subcommittee on Human Resources of the House Committee on Ways and Means held a hearing on improving efforts to help unemployed Americans find jobs. On March 11, 2011, the Subcommittee on Human Resources of the House Committee on Ways and Means held a hearing on the use of data matching to improve customer service, program integrity, and taxpayer savings.

II. EXPLANATION OF THE BILL

TITLE I—REFORMS OF UNEMPLOYMENT COMPENSATION TO PROMOTE WORK AND JOB CREATION

A. CONSISTENT JOB SEARCH REQUIREMENTS (SEC. 101 OF THE BILL AND SEC. 303(a) OF THE SOCIAL SECURITY ACT)

PRESENT LAW

Federal unemployment law does not contain explicit job search requirements for the receipt of regular State unemployment compensation (UC). Through interpretation of the framework of the Federal unemployment laws contained within the Social Security Act (SSA) and in the Federal Unemployment Tax Act (FUTA), it is generally understood that workers must have lost their jobs through no fault of their own and must be able, available, and willing to work. Variations exist in State law requirements concerning ability and availability for work. Most State laws require evidence of ability to work through the filing of claims and registration for work at a public employment office. Availability for work is often translated to mean being ready, willing, and able to work. Meeting the requirement of registration for work at a public employment office is considered as some evidence of availability.

Section 202(a)(3)(A) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, does explicitly require active job search. However, the method of determining active job search is left to the determination of the States.

REASONS FOR CHANGE

The Committee believes the lack of a current requirement that unemployment insurance recipients engage in meaningful job search, along with minimum standards for what that means, is a significant omission. The Committee notes that under current law, in which State and Federal benefits are payable for up to 99 weeks under three separate programs, an explicit work search requirement applies in only one of those programs—the Extended Benefits program that generally provides benefits at the end of a worker's time collecting Unemployment Insurance. This is exactly backwards—States should expect UI recipients to engage in effective job searches from the beginning of their time collecting unemployment benefits, not only at the very end of their time collecting those benefits. Thus Section 101 of the legislation amends the Social Security Act to generally apply the current job search standards, similar to those that apply under the Extended Benefits program, to all weeks of unemployment benefit collection, with appropriate updates to assist States in effectively administering this provision.

A significant body of evidence suggests that effective job search requirements increase the likelihood that unemployed workers return to work. For example, a 2004 report by the Upjohn Institute for Employment Research [1] summarizes findings from numerous studies that have shown how job search requirements and job search assistance can significantly reduce the length of receipt of

[1] O'Leary, Christopher. 2004. *UI Work Search Rules and Their Effects on Employment.* Report prepared for the Center for Employment Security Education and Research, National Association of State Workforce Agencies. Available online: http://research.upjohn.org/reports/83/.

unemployment insurance benefits. Implementing a standard requirement across the Unemployment Insurance system will communicate a uniform message to recipients as well as help them more quickly return to the workforce.

The Subcommittee on Human Resources, in its February 10, 2011 hearing on improving efforts to help unemployed Americans find jobs, received testimony in support of strengthening job search. For example, Kristen Cox, the Executive Director of the Utah Department of Workforce Services, noted, "In Utah, UI claimants are required to register for work with the department's online job board within five business days of their initial claim or they are denied benefits. Starting in February this year, Utah has doubled the minimum work search requirements to four job contacts per week. Returning to work should be a full-time job. Not all States require this type of activity." Douglas J. Holmes, President of UWC-Strategic Services on Unemployment and Workers' Compensation, added, "In a recent survey of state unemployment insurance agencies conducted for UWC by the National Foundation for Unemployment Compensation and Workers' Compensation, 39 states reported exceptions to the general work search requirements and one state reported that it had no work search requirement as a condition of eligibility for unemployment compensation. Exceptions to work search requirements ranged from a general exception when the state unemployment rate exceeded 8.5% to situations where individuals are attached to prior employment and expect to return to work, seek work through hiring halls or temporary services, are in approved training, or are between terms of employment for a seasonal employer." Mr. Holmes recommended "Work search requirements for federal programs and standards for State work search requirements should be enacted to send the appropriate signal to claimants that active work search efforts are expected and required as a condition of receiving unemployment compensation. Work search efforts should be recorded and verifiable."

As a result, the Committee believes that consistent and meaningful job search requirements are both appropriate and will help more unemployed individuals more quickly return to work, which is the Unemployment Insurance program's ultimate intent.

EXPLANATION OF PROVISION

The provision creates minimum job search requirements for individuals collecting unemployment benefits—ensuring all are actively seeking work, have registered for employment services, have posted resumes, and have applied for work similar to that which the individual previously performed.

EFFECTIVE DATE

The provision becomes effective after the end of the next session of each State's legislature.

B. Participation in Reemployment Services Made a Condition of Benefit Receipt (Sec. 102 of the Bill and Sec. 303(A) of the Social Security Act and Sec. 3304 of the Internal Revenue Code)

PRESENT LAW

Federal law does not require minimum educational standards as a condition of benefit receipt. Section 303(a)(9) of the SSA requires any claimant who has been referred to reemployment services pursuant to the profiling system under Section 303(j)(1)(B) to participate in such services or in similar services unless the State agency charged with the administration of the State law determines that (1) such claimant has completed such services, or (2) there is justifiable cause for such claimant's failure to participate in such services.

Section 303(j) requires the State to use a system of profiling all new claimants for regular compensation. The profiling system must: (1) identify which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment; and (2) refer the identified claimants to reemployment services (including job search assistance services) that are available under any State or Federal law.

Section 3304(a)(8) of the IRC requires, as a condition for employers in a State to receive normal credit against the Federal tax, that a State's unemployment benefits laws provide that compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work). A recent Training and Employment Guidance Letter (TEGL) No. 21–08, among other items, strongly encouraged States to broaden their definition of approved training for UC beneficiaries during economic downturns.

REASONS FOR CHANGE

The Committee believes changes are needed to the existing Unemployment Insurance system so that States better assist individuals in receiving the education and other services they require to return to work at decent wages.

First, the bill would generally condition UI receipt for individuals without a high school diploma on their making progress toward a GED; the provision allows States to waive this requirement if it would be "unduly burdensome" in individual cases—for example involving older workers with substantial work experience. This provision responds to clear evidence that individuals without a high school diploma are at significant risk in current and likely future labor markets. For example, according to Bureau of Labor Statistics data,[2] in April 2011 adults without a high school diploma experienced an unemployment rate of 14.6 percent—more than 50 percent above the level for adults who had graduated from high school.

[2] "Table A–4. Employment status of the civilian population 25 years and over by educational attainment." May 6, 2011. Bureau of Labor Statistics. Available online: http://www.bls.gov/news.release/empsit.to4.htm

Only 39 percent of adults without a high school diploma were employed, compared with 55 percent of high school graduates and 73 percent of college graduates. A February 2011 Brookings Institution report[3] put these differences in context: "One in three people in the United States with less than a high school education is either unemployed or underemployed. . . . Beyond the immediate difficulties that unemployment causes for affected families, these differences in labor market participation undermine the country's social fabric." The provision is designed to expect more unemployed persons without a high school diploma to use their time receiving benefits productively, helping them return to work sooner and at better wages, and whenever possible preventing future instances of unemployment.

The Subcommittee on Human Resources, at its February 10, 2011 hearing, received testimony in support of engaging individuals in additional education while they collect unemployment benefits. For example, as part of a broader activity requirement applicable to all unemployment benefit recipients, Tom Pauken, the Chairman of the Texas Workforce Commission, proposed, "Those without a high school diploma could choose to study for their GED. UI claimants in that category would be entitled to first priority for participation in existing federally funded Adult Basic Education programs."

Second, Section 102 of the bill expects individuals who have otherwise been referred to reemployment services by the State to participate in those services as a condition of eligibility for benefits. The Committee notes that States currently must have a system that profiles all new claimants for regular compensation, and identifies those most likely to exhaust regular compensation and need job search assistance services to make a successful transition to new employment. While States are expected to refer the identified claimants to reemployment services, there is no current requirement that the individual participate in services to which they have been referred. The Committee notes that, while record numbers have been receiving and exhausting unemployment benefits in recent years, a very small percentage of unemployment benefit recipients are being referred to reemployment services, and even fewer are completing them. In 2010 (the most recent available data), out of almost 11 million people who started collecting unemployment benefits, 2.2 million were referred to reemployment services through the worker profiling system; but of this number only slightly more than 200,000 reported to a training service—only around 10 percent of those referred, and less than 2 percent of all recipients.

EXPLANATION OF PROVISION

The provision amends Section 303(a) of the Social Security Act and 3304(a) of the Internal Revenue Code to require unemployment insurance recipients who lack a high school diploma to be making progress toward a GED to remain eligible for benefits; it includes a broad exception allowing States to waive this requirement if it would be "unduly burdensome" in individual cases, such as older

[3] Greenstone, Michael and Looney, Adam. February 4, 2011. *A Broader Look at the U.S. Employment Situation and the Importance of a Good Education*. The Brookings Institution. Available online: http://www.brookings.edu/opinions/2011/0204__jobs_greenstone_looney.aspx

workers. Separately, the provision expects individuals who have otherwise been referred to reemployment services by the State to participate in those services as a condition of eligibility for unemployment benefits.

EFFECTIVE DATE

The provision becomes effective after the end of the next session of each State's legislature.

C. STATE FLEXIBILITY TO PROMOTE RETURNS TO WORK FOR UNEMPLOYED WORKERS (SEC. 103 OF THE BILL AND SECTION 305 OF THE SOCIAL SECURITY ACT)

PRESENT LAW

Section 3304(a)(4) of the IRC and Section 303(a)(5) of the SSA set the withdrawal standards for States to use funds within the State account in the Unemployment Trust Fund (UTF). All funds withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration. Few exceptions exist; these include, for instance, withholding for tax purposes, for child support payments, to repay UI overpayments or covered unemployment compensation debt, and for benefits for the Self-Employment Assistance program and the Short-Time Compensation program.

Section 303(a)(1) requires that the State UC program personnel be merit employees.

REASONS FOR CHANGE

The Committee believes it is appropriate to enact changes designed to help more people return to work. Testing innovative approaches is an opportunity granted in other areas of social policy. As a result, the Committee believes that States should have the flexibility to test and evaluate innovative demonstration projects within the Unemployment Insurance system designed to help more unemployed workers return to work.

The Committee has long recognized the importance of State flexibility and experimentation in social programs. Prior to the successful welfare reform efforts undertaken by the Committee in the mid-1990s, States were granted waivers from certain requirements of welfare law to test new approaches to help low-income families become self-sufficient. This experimentation with work requirements, time limits, eligibility criteria, and alternate types of benefits generated a wealth of ideas for reforming the underlying program. These ideas were then successfully adopted as part of a broad nationwide overhaul of the welfare system, culminating in the creation of the Temporary Assistance for Needy Families (TANF) program in 1996. Research has shown that in the decade following that overhaul, this program played a key role in increasing earnings of low-income single mothers and in reducing child poverty.

In addition to welfare waivers, the Committee has also provided waiver authority to States in the area of child welfare. These waivers allowed States to test ways of better serving children in foster care and other programs, and the results from successful child welfare waiver experiments also have been incorporated into Federal

law, which has both improved the lives of children and ensured that money is well spent.

Expanding this practice of providing waivers to include State Unemployment Insurance programs may yield tangible short-term gains for individuals while also providing valuable information that can inform Federal policymaking in the future.

EXPLANATION OF PROVISION

The provision allows States to apply for cost-neutral "waivers" of Federal unemployment law, so they can test innovative strategies to promote more and faster reemployment of unemployed workers.

EFFECTIVE DATE

This provision becomes effective on the date of enactment of the Act.

D. REPEAL OF REGULATION REQUIRING HIGHER STATE TAXES (SEC. 104 OF THE BILL AND SEC. 1202(B)(2) OF THE SOCIAL SECURITY ACT)

PRESENT LAW

Programmatically, the U.S. Labor Department has long suggested a State's balance account within the Unemployment Trust Fund (UTF) should provide for one year's projected benefit payment needs on the basis of the highest levels of benefit payments experienced by the State over the last three business cycles. This is called the average high-cost multiple (AHCM). A ratio of 1.0 or greater prior to a recession would be considered to be minimally solvent.

Section 1202(b)(2) of the SSA allows States to borrow funds without interest from the Federal Unemployment Account (FUA) within the UTF during the year. To receive these interest-free loans, States must meet three conditions:

(A) States must repay the loans by September 30 of the fiscal year.

(B) For those loans to maintain their interest-free status, there cannot be any loans made to that State in October, November, or December of the calendar year of such an interest-free loan. If loans are made in the last quarter of the calendar year, the "interest-free" loans made in the previous fiscal year will retroactively accrue interest charges.

(C) States must meet funding goals relating to their account in the UTF, established by the Secretary of Labor under 42 C.F.R. § 503(c)(3).

42 C.F.R. § 503(c)(3) requires that by 2019, States must have had at least one year in the past five calendar years before the year in which loans are taken where the ratio of its trust fund balance to the average highest cost multiple (AHCM) is at least 1.0. Additionally, States must meet two criteria for maintenance of tax effort in every year from the most recent year the AHCM was at least 1.0 and the year in which advances are taken: The average State unemployment tax rate (the ratio of total State tax amount collected over the total taxable wages) was at least 80% of the prior year's rate; and, the average State unemployment tax rate is at least 75% of the average benefit-cost ratio over the preceding five calendar years, where the benefit-cost ratio for a year is defined as the

amount of benefits and interest paid in the year divided by the total covered wages paid in the year.

REASONS FOR CHANGE

The Committee is concerned that the solvency standard that the U.S. Department of Labor has proposed would not be reasonably attainable in many States, especially given the large number of States with current negative balances, including the more than 30 that have had to resort to a combined over $40 billion in borrowing from the Federal government to date. Thus the enforcement of the proposed solvency standard in the future would have the effect of either (1) forcing steep benefit reductions or even greater unemployment tax increases on jobs than are already taking effect due to the recession, further harming job creation and hiring, or (2) permanently denying States the ability to access short-term interest-free borrowing that would otherwise be available to assist them in paying unemployment benefits in a future downturn. Neither outcome is acceptable, and thus section 104 repeals the U.S. Department of Labor regulation.

EXPLANATION OF PROVISION

The provision amends Section 1202(b)(2) of the Social Security Act by repealing a September 17, 2010 U.S. Department of Labor regulation on funding goals that would be made a condition of a State's ability to receive interest-free advances from the Federal Government for the payment of unemployment insurance.

EFFECTIVE DATE

The provision becomes effective on the date of enactment of the Act.

E. STATE FLEXIBILITY TO IMPROVE UNEMPLOYMENT PROGRAM SOLVENCY WITHOUT RAISING TAXES (SEC. 105 OF THE BILL AND SEC. 4001 OF THE SUPPLEMENTAL APPROPRIATIONS ACT, 2008)

PRESENT LAW

Section 4001(g) of the Supplemental Appropriations Act of 2008 (P.L. 110–252), as amended, currently prevents States from decreasing the average weekly benefit amount of regular UC payments. That is, a State is not permitted to pay an average weekly UC benefit that is less than what would have been paid under State law prior to what was in effect on June 2, 2010. This "nonreduction rule" is a condition of the EUC08 Federal-State agreement of P.L. 110–252, as amended.

REASONS FOR CHANGE

The current "nonreduction rule" was originally applied in the 2009 stimulus law as an effort to ensure States maintain their own unemployment benefit payments while the Federal government was providing an additional $25 per week in "Federal additional compensation." The Committee believes this current rule should be eliminated for several reasons.

First, "Federal additional compensation" is no longer payable, having ended in December 2010. Thus the original purpose for

which this provision was created—to ensure that States do not reduce State benefit levels while a special Federal benefit of $25 was payable—no longer exists.

Second, this provision effectively forces States that wish to improve the solvency of their UI programs to raise taxes, rather than also consider appropriate benefit reductions. In all prior recessions, States used both those tools to improve the solvency of their unemployment programs. This "nonreduction rule" has thus likely contributed to the steep rise in State unemployment taxes in recent years; State unemployment taxes will have risen by 44 percent between fiscal year 2009 (when this provision took effect) and 2011, according to U.S. Department of Labor statistics in their Fiscal Year 2012 UI Outlook.

Finally, repeal of this provision is consistent with the additional flexibility provided States under the provisions of Title II of the JOBS Act, described below.

EXPLANATION OF PROVISION

The legislation repeals a provision in section 4001 of the Supplemental Appropriations Act, 2008, that since the 2009 stimulus law has blocked States that want to improve solvency from reducing State unemployment benefits while still receiving Federal extended benefit funds. The provision being repealed has left States no choice but to raise taxes on jobs if they want to improve unemployment program solvency.

EFFECTIVE DATE

The provision becomes effective on the date of enactment of the Act.

F. Data Standardization for Improved Data Matching (Sec. 106 of the Bill and Title IX of the Social Security Act)

PRESENT LAW

There are currently no specific Federal laws or regulations related to uniform data elements for data matching in the Federal-State unemployment insurance system. Section 303(a)(6) of the SSA requires States to make reports of information and data as required by the U.S. Secretary of Labor. But current Federal law contains no precise requirements regarding codes or identifiers attached to UC, EUC08, or EB program data or any other data standards.

REASONS FOR CHANGE

The Committee believes the programs within its jurisdiction should, from an information technology standpoint, operate consistently within and across programs. By beginning the process of data standardization and the use of common reporting mechanisms in this section, the Committee is achieving three goals: better preventing and identifying fraud and abuse; increasing the efficiency of administrative resources; and producing program savings for U.S. taxpayers. The private sector is decades ahead in its ability to use data efficiently to detect patterns of misuse, such as when credit cards are lost or stolen, and streamlining backend data proc-

essing. The public sector needs to review those best practices to better improve the operation of public benefit programs, prevent and identify fraud and abuse, and improve recovery of misspent taxpayer funds. The first step is organizing the data, as this section directs the Secretary to do starting with the Unemployment Insurance program.

The Subcommittee on Human Resources, in its March 11, 2011 hearing on the use of data matching to improve customer service, program integrity, and taxpayer savings, received testimony in support of consistent data standards that are non-proprietary and promote the interoperability of data across various information technology platforms, including State legacy systems. The hearing confirmed that not only are programs within the Subcommittee's jurisdiction in silos, but so is the accompanying data. Improved data standards will help increase the efficiency of data exchanges to use and reuse data within and across programs. In the Unemployment Insurance program, consistent data standards will allow States to automate the exchange of claimant data on work and benefit receipt, reducing delays and minimizing improper payments. It will also help to automate application forms by pre-populating them with reliable and verified data, which can reduce the manual burden on staff and allow them more time to engage individuals in reemployment services, all while reducing error.

Therefore, the Committee believes that non-proprietary, interoperable data standards in the Unemployment Insurance program are the first step to better organizing and using data to address fraud and abuse and increase administrative efficiency. This process will have the additional important benefit of improving the services the program provides to unemployed individuals in their efforts to return to work.

EXPLANATION OF PROVISION

The provision directs the U.S. Secretary of Labor to develop standardized data elements to be used in improving the accuracy and administration of unemployment benefits.

EFFECTIVE DATE

The provision becomes effective on October 1, 2012.

G. TECHNICAL AND CONFORMING AMENDMENTS (SEC. 107 OF THE BILL AND SEC. 3304(a)(4) OF THE INTERNAL REVENUE CODE AND 303(g)(1) OF THE SOCIAL SECURITY ACT)

PRESENT LAW

Section 3304(a)(4)(D) of the IRC allows States to deduct overpayments from current benefits, as authorized in Section 303(g)(1) of the SSA. Under current law, this deduction of overpayments from unemployment benefit payments is optional for States, which "may" carry out this provision (or may not). Many States grant waivers—in cases of extreme hardship for individuals, for example—or do not require this deduction of overpayments for every case.

REASONS FOR CHANGE

The Committee believes in the need to strengthen program integrity, including the collection of benefit overpayments. Data reflecting benefit payments made in 2009 reveal unemployment overpayments continue to increase in both percentage and absolute dollar terms. A large part of the absolute increase is due to the significant rise in total unemployment benefits paid. The most recent data indicates an overpayment rate of 10.6%, and a total of $16.5 billion in annual overpayments. Recoverable overpayments estimated by the Benefit Accuracy Measurement (BAM) survey increased from $2.8 billion in FY 2009 to $4.0 billion in FY 2010, as benefits paid increased. The conforming amendment in the legislation is designed to enhance the States' ability to efficiently recover such rising overpayments from current benefits, with limited additional administrative burdens. It is also consistent with overpayment collection methods in other programs, as well as the Treasury Offset Program designed to collect unemployment benefits overpayments from Federal tax refunds.

EXPLANATION OF PROVISION

The provision requires States to reduce current unemployment benefits to recover prior unemployment benefit overpayments.

EFFECTIVE DATE

The provision becomes effective after the end of the next session of each State's legislature.

TITLE II—FORWARD FUNDING REMAINING FEDERAL UNEMPLOYMENT COMPENSATION

A. Special Transfers to All States (Sec. 201 of the Bill and Sec. 903 of the Social Security Act)

PRESENT LAW

All unemployment benefits—including Federal unemployment benefits (i.e., the Extended Benefit (EB) and Emergency Unemployment Compensation (EUC08) programs)—are mandatory entitlements paid out to individuals who meet certain eligibility requirements. These benefit payments are not appropriated by Congress under current law. Regular UC benefits are financed through States taxes on employers.

Under permanent law in Section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91–373), the cost of EB benefits are shared, with half (50%) of EB funded by the Federal government and States funding the other half (50%).

Section 2005(a) of the American Recovery and Reinvestment Act of 2009 (P.L. 111–5), as amended, temporarily changes the Federal-State funding arrangement. The Federal government finances 100% of EB benefits until January 4, 2012, with the exception of "non-sharable" benefits (generally, these are former State and local employees' EB benefits). For individuals who were receiving EB payments on January 4, 2012, the Federal government will continue to pay 100% of EB benefits for the duration of these individ-

uals' benefits (but not for new entrants to the EB program starting after that date).

Section 4004(e)(1) of the Supplemental Appropriations Act of 2008 (P.L. 110–252), as amended, finances EUC08 benefits from general funds of the U.S. Treasury through the expiration of the EUC08 program the week ending on or before January 3, 2012. States do not need to repay these funds.

Under Section 4001(a) of the Supplemental Appropriations Act of 2008 (P.L. 110–252), as amended, a State has the option to terminate the Federal-State EUC08 agreement with 30 days notice to the U.S. Department of Labor.

REASONS FOR CHANGE

Due to the record amount of unemployment benefits paid since the start of the recession in 2007, most States have been forced to dramatically increase unemployment taxes on jobs, compromising employers' ability to hire new workers. Meanwhile, under temporary Federal measures that expire in December 2011, States will be paid about $31 billion in Federal unemployment funds, but under current law none of that money can be used to mitigate those steep tax hikes on jobs or otherwise provide services to help more unemployed individuals return to work. Instead, all of these temporary Federal funds must be spent on a highly prescriptive system of 100% Federally-funded unemployment benefits lasting up to 73 weeks, which when combined with 26 weeks of State Unemployment Insurance benefits, means unemployment checks in half of the States now last up to 99 weeks per person—or nearly two years. The current maximum of 73 weeks of 100% Federally-funded benefits is 40 weeks longer than has ever been provided in any other recession, and 47 weeks beyond the typical maximum of 26 weeks of 100% Federally-funded benefits. Title II of this legislation, and specifically section 201, is designed to bridge this divide by providing all States new flexibility in spending their share of the $31 billion in remaining temporary Federal unemployment funds. Under section 201, States must use this money to continue paying current Federal unemployment benefits, unless they pass laws to use the funds differently within the bounds of the Unemployment Insurance system, including to promote more job creation and hiring.

Specifically, by passing a new State law, States could spend these temporary Federal funds within the UI system for any of the following purposes: (1) to support State unemployment benefits without the need for higher taxes or additional borrowing; (2) to provide reduced weeks of extended benefits after workers exhaust State benefits (or even increased weeks for certain individuals or groups, subject to the fixed amount of funds provided); (3) to repay Federal unemployment loans States have taken to pay past unemployment benefits or to pay the interest on those loans, without having to raise State unemployment taxes; or (4) to provide reemployment services, including wage subsidies, promoting reemployment and job creation.

States with unemployment loans would not have their interest charges waived, but instead could better target current Federal funds and use any savings to prevent job-destroying unemployment tax hikes. Under current law up to 99 weeks of total unemploy-

ment benefits are paid across most of the U.S., including up to 73 weeks of Federal benefits, an all-time record. But 70 percent of the Federal spending to date behind those 73 weeks of benefits has been untargeted, as the money has been spent without regard to the State's unemployment rate. For example, under current law, in North Dakota where the unemployment rate is 3.6 percent, unemployed workers collect over a year of total benefits, including 34 weeks of Federal unemployment benefits. Even in States with unemployment rates as low as 6.5 percent—which is significantly below the current 9.0 percent national average—as many as 60 weeks of Federal benefits are payable after someone exhausts 26 weeks of State benefits, for a total of 86 weeks of benefits. Section 201 of the legislation allows States to decide whether these Federal rules make sense given local conditions, and if not, to choose to spend money that has already been committed more wisely within the unemployment insurance system, by passing a law to that effect.

The Congressional Budget Office expects that current temporary Federal unemployment benefits law will result in $31 billion in Federal spending during the remainder of FYs 2011 and 2012. Section 201 equitably divides that $31 billion in expected spending among the States, according to their share of Federal unemployment benefits spending in the past 12 months.

EXPLANATION OF PROVISION

The provision forward funds to State unemployment accounts the expected $31 billion in remaining temporary Federal unemployment funds. Funds will be provided in FY 2011 ($12.8 billion, transferred within 10 days of enactment) and FY 2012 ($18.2 billion, transferred between October 1st and 10th, 2011). State shares of the $31 billion will be equal to their share of Federal unemployment benefit spending in the most recent 12 months. This provision also requires States to spend these funds: (1) to pay current Federal unemployment benefits; or (2) as specified by a State law passed after enactment, for regular or extended unemployment benefits, for repaying Federal unemployment loans (or interest on those loans), or for reemployment services such as wage subsidies, job search assistance, and other services designed to promote rapid reemployment.

EFFECTIVE DATE

The provision becomes effective on the date of enactment of the Act.

B. EMERGENCY UNEMPLOYMENT COMPENSATION TRANSITION RULES (SEC. 202 OF THE BILL AND SEC. 4003 AND 4004(e)(1) OF THE SUPPLEMENTAL APPROPRIATIONS ACT, 2008)

PRESENT LAW

Section 4001 of the Supplemental Appropriations Act of 2008 (P.L. 110–252), as amended, allows all States to enter into a Federal-State agreement to make EUC08 payments to eligible individuals. As described above, EUC08 benefit payments are currently financed from general funds of the U.S. Treasury until the expira-

tion of the EUC08 program the week ending on or before January 3, 2012.

Section 4001(a) of the Supplemental Appropriations Act of 2008 (P.L. 110–252, as amended) provides a State with the option to terminate the Federal-State EUC08 agreement with 30 days notice to the U.S. Department of Labor.

Section 4003(a) of the Supplemental Appropriations Act of 2008 (P.L. 110–252), as amended, authorizes payments to States with Federal-State agreements from the U.S. Treasury for the purposes of EUC08 benefits.

REASONS FOR CHANGE

The provisions of Section 201 forward fund all of the remaining Federal Emergency Unemployment Compensation (EUC) program funds to States.μ Consistent with that, Section 202 ends the current monthly payment mechanism for that program, which is no longer needed.

EXPLANATION OF PROVISION

Since Section 201 forward funds to all States their expected share of remaining Federal EUC funds payable during the remainder of that program, this section repeals the current monthly payment system used by that program. It also includes a technical provision adding this legislation to the list of unemployment laws for which general funds may be transferred.

EFFECTIVE DATE

The repeal of current monthly payments to States is effective with respect to weeks ending after July 6, 2011.

C. EXTENDED BENEFITS PROGRAM TRANSITION RULES (SEC. 203 OF THE BILL, SEC. 2005 OF THE ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES ACT, SEC. 203 AND 204(a)(1) OF THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970, AND SEC. 502 OF THE TAX RELIEF, UNEMPLOYMENT REAUTHORIZATION, AND JOB CREATION ACT OF 2010)

PRESENT LAW

As detailed above, EB benefits are temporarily 100% Federally financed (Section 2005(a) of the American Recovery and Reinvestment Act of 2009 (P.L. 111–5), as amended). Under current law, the Federal government finances 100% of EB benefits until January 4, 2012 with the exception of "nonsharable" benefits (benefits for persons who worked for employers that are not subject to Federal Unemployment Taxes such as former State employees). The Federal government will continue to pay 100% of EB benefits for the duration of these individuals' benefits for individuals receiving EB payments on January 4, 2012, but not for new entrants to the EB program after that date.

In addition, Section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111–312) amends Sections 203(d) & (f) of the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91–373) to allow States

to temporarily use lookback calculations for their EB trigger based on three years of unemployment rate data (rather than the current lookback of two years of data) as part of their mandatory and/or optional EB triggers if States would otherwise trigger off or not be on a period of EB benefits. States implement the lookback changes individually by amending their State Unemployment Compensation laws. This temporary option to use three-year EB trigger lookbacks expires the week on or before December 31, 2011. As of May 8, 2011, 23 States have enacted State laws to adopt a three-year lookback for one or more of the EB program triggers.

REASONS FOR CHANGE

The Committee believes that States should be provided flexibility to support Unemployment Insurance beneficiaries in returning to work by forward funding remaining Federal extended benefit dollars to the States. However, if States take no additional action, the Committee intends for benefits to continue to be paid under current temporary Federal policies.

EXPLANATION OF PROVISION

The provisions of Section 201 forward fund all of the remaining Federal Extended Benefit (EB) program funds to States associated with temporary expansions of that program, specifically policies that provide for 100 percent Federal funding and a three-year lookback that has allowed more States to qualify for the program in CY 2011. Consistent with that forward funding approach in Section 201, Section 203 ends those temporary expansions, since States will receive the funds associated with those policies.

This section includes a technical "savings provision" designed to ensure that, if States take no additional action, EB program benefits continue to be paid automatically, despite State laws that express that the program will only be operational as long as they receive 100% Federal funding or apply a three-year lookback.

EFFECTIVE DATE

In general, these provisions are effective on July 1, 2011.

D. EMERGENCY DESIGNATION (SEC. 204 OF THE BILL)

PRESENT LAW

Section 204 of this legislation designates the budgetary effects of H.R. 1745 as an emergency requirement and "necessary to meet emergency needs pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010."

REASONS FOR CHANGE

The Committee believes current emergency funds should be repurposed to provide greater flexibility to States and that this will help more people return to work. Because of this repurposing, the legislation needs to carry an emergency designation.

EXPLANATION OF PROVISION

Section 204 is a technical provision required because the underlying provisions amended in Title II originally carried an emer-

gency designation. Because it amends the purposes for which funds payable under those provisions may be spent, the legislation also needs to carry an emergency designation.

EFFECTIVE DATE

The provision is effective upon the date of enactment of the Act.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 1745.

The bill H.R. 1745 was ordered favorably reported, as amended, by a rollcall vote of 20 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	X			Mr. Levin		X	
Mr. Herger	X			Mr. Rangel		X	
Mr. Johnson				Mr. Stark		X	
Mr. Brady	X			Mr. McDermott		X	
Mr. Ryan	X			Mr. Lewis			
Mr. Nunes	X			Mr. Neal		X	
Mr. Tiberi	X			Mr. Becerra		X	
Mr. Davis	X			Mr. Doggett		X	
Mr. Reichert	X			Mr. Thompson		X	
Mr. Boustany	X			Mr. Larson		X	
Mr. Roskam	X			Mr. Blumenauer		X	
Mr. Gerlach	X			Mr. Kind		X	
Mr. Price	X			Mr. Pascrell		X	
Mr. Buchanan	X			Ms. Berkley		X	
Mr. Smith	X			Mr. Crowley		X	
Mr. Schock	X						
Ms. Jenkins	X						
Mr. Paulsen	X						
Mr. Marchant	X						
Mr. Berg	X						
Ms. Black	X						

VOTES ON AMENDMENTS

The Davis Amendment to the Amendment in the Nature of a Substitute to H.R. 1745 passed by voice vote (with a quorum being present).

The Doggett Amendment to the Amendment in the Nature of a Substitute to H.R. 1745 failed by voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 1745 as reported: The Committee agrees with the estimates prepared by the Congressional Budget Office (CBO), which are included below.

STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

The bill as reported is not in compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives. However, the Chairman of the Committee on Ways and Means has already provided an amendment in the nature of a substitute to the Committee on Rules to bring the bill into compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives. The amendment makes technical and conforming changes to Section 203 of the legislation, which were brought to the Committee's attention after markup and are designed to ensure that individuals currently eligible for Extended Benefits remain eligible and that States are not able to claim additional matching payments since the bill already provides full Federal funding for those benefits.

Once the technical and conforming changes are made to section 203, the Committee will be able to state that the bill involves no new or increased budgetary authority. The Committee will also be able to state further that the bill involves no new or increased tax expenditures.

As a result, the Committee has requested CBO provide an estimate for the bill as reported as well as for the amendment in the nature of a substitute containing the technical and conforming changes needed to comply with both the Committee's intent and House rules on deficit reduction.

B. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 23, 2011.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1745, the Jobs, Opportunity, Benefits, and Services Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1745—Jobs, Opportunity, Benefits, and Services Act of 2011

Summary: H.R. 1745 would, beginning in July 2011, repeal provisions that allow federal reimbursements for the emergency unemployment compensation program (EUC), temporarily provide full federal funding for extended benefits (EB), and allow states to make it easier to provide EB. The legislation also would tempo-

rarily suspend the 50 percent federal match for EB through December 2011.

Additionally, enacting the bill would provide special distributions to the states in 2011 and 2012 totaling $31 billion, which states could use to continue to provide EUC and EB (as those programs existed on May 1, 2011), or pay for other unemployment-related expenses, including any interest due on loans from the unemployment trust fund (UTF).

Finally, H.R. 1745 would require states to reduce unemployment benefits to individuals who have received overpayments, require individuals to meet certain criteria for receipt of benefits, and direct the Department of Labor to establish uniform reporting codes.

CBO estimates that enacting H.R. 1745 would reduce outlays by $125 million in 2011 and by $3.1 billion over the 2011–2021 period. Under the bill, revenues also would decline by $2.4 billion over the 2011–2021 period. On balance, enacting H.R. 1745 would reduce deficits by approximately $0.7 billion over the 2011–2021 period. Implementing the bill would not have a significant effect on discretionary spending.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

H.R. 1745 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1745 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	−125	−2,835	−15	−15	−15	−15	−15	−15	−15	−15	−15	−3,020	−3,095
Estimated Outlays	−125	−2,835	−15	−15	−15	−15	−15	−15	−15	−15	−15	−3,020	−3,095
CHANGES IN REVENUES													
Estimated Revenues	0	−8	−211	−616	−617	−477	−233	−185	−38	−11	−11	−1,929	−2,407
NET INCREASE OR DECREASE (−) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Estimated Impact on the Deficit	−125	−2,827	196	601	602	462	218	170	23	−4	−4	−1,091	−688

Basis of estimate: For the purpose of this estimate, CBO assumes H.R. 1745 will be enacted by July 1, 2011. Later enactment could change the estimate significantly.

H.R. 1745 would repeal the federal funding for EUC for weeks of unemployment ending after July 6, 2011. In addition, H.R. 1745 would terminate temporary aspects of the EB program that extend 100 percent federal funding for that program and make it easier for states to meet the unemployment rate thresholds required to provide benefits. The bill also would temporarily suspend the 50 percent federal match for EB through December 2011.

Direct Spending

The bill would transfer $12.8 billion to states for fiscal year 2011 and $18.2 billion for fiscal year 2012. States could use those funds to operate EUC and EB as they existed in state agreements as of May 1, 2011. However, the total amount that would be transferred is about $0.6 billion lower than the amounts CBO projects states will spend on EUC and special EB under current law. (Under current law, EUC and the temporary EB provisions are authorized through December 2011; states may terminate agreements to provide EUC by giving 30 days' notice to the Department of Labor.) A state could use the transferred funds for other unemployment-related purposes, including paying interest due on loans from the UTF, but such changes would require state legislation.

CBO estimates that most states would continue to operate EUC and EB programs using their share of the total $31 billion in transfers that would be provided by H.R. 1745. However, CBO expects that some states would opt out of EUC, provide fewer benefits under EB, or change their laws to use a portion of the funds for other purposes. CBO estimates that such changes would decrease outlays for EUC and EB by $125 million in 2011 and $2.8 billion in 2012.

The bill also would direct states to offset overpayments of unemployment compensation by reducing benefits to individuals, harmonize job search requirements, and mandate recipients of unemployment compensation to meet a minimum education threshold (though that requirement could be waived in cases of hardship). CBO estimates those provisions would reduce outlays by about $15 million per year beginning in 2013.

Revenues

Provisions in H.R. 1745 would affect states' revenues for unemployment compensation, which are reflected on the federal budget. Lower outlays would result in higher balances in states' unemployment trust funds. CBO estimates that some states would respond to the higher balances by reducing their unemployment taxes (or by avoiding tax increases assumed in the baseline that would replenish the trust funds). As a result, CBO estimates that, on net, revenues would decline by $2.4 billion over the 2011–2021 period under H.R. 1745.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table. Under H.R.

1745, there would be no net impact for purposes of enforcing the Statutory Pay-As-You-Go Act because the bill would designate the bill's effects as an emergency requirement.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1745 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON MAY 11, 2011, WITH SUBSEQUENT LANGUAGE PROVIDED ON MAY 18, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET INCREASE OR DECREASE (−) IN THE DEFICIT													
Total change	−125	−2,827	196	601	602	462	218	170	23	−4	−4	−1,091	−688
Less:													
Designated as Emergency Requirements [a]	125	2,827	−196	−601	−602	−462	−218	−170	−23	4	4	1,091	688
Statutory Pay-As-You Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	0
Memorandum:													
Change in Outlays	−125	−2,835	−15	−15	−15	−15	−15	−15	−15	−15	−15	−3,020	−3,095
Change in Revenues	0	−8	−211	−616	−617	−477	−233	−185	−38	−11	−11	−1,929	−2,407

[a] Section 204 of H.R. 1745 would designate the budgetary effects of the bill as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

Intergovernmental and private-sector impact: H.R. 1745 contains no intergovernmental or private-sector mandates as defined in UMRA. CBO estimates that changes to the unemployment compensation program would result in lower federal transfers to the states than under current law and also would result in decreases in unemployment taxes in some states. These effects, however, would result from states' participation in the federal unemployment insurance program, which is voluntary, and would not result from intergovernmental mandates as defined in UMRA.

Previous CBO estimate: On May 23, 2011, CBO transmitted an estimate of the budgetary effects of H.R. 1745, as ordered reported by the House Committee on Ways and Means on May 11, 2011. That version of the bill would allow states to receive a federal match of 50 percent of the costs of EB beginning in July 2011, and, in CBO's estimation, would result in a net increase in federal deficits of $4 million over the 2011–2021 period. The amendment in the nature of a substitute would temporarily suspend that matching provision, and as a result would result in savings over the 2011–2021 period of $0.7 billion.

Estimate prepared by: Federal Spending: Christina Hawley Anthony; Federal Revenues: Barbara Edwards; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Sarah Axeen.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis; Frank Sammartino; Assistant Director for Tax Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 23, 2011.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1745, the Jobs, Opportunity, Benefits, and Services Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1745—Jobs, Opportunity, Benefits, and Services Act of 2011

Summary: H.R. 1745 would, beginning in July 2011, repeal provisions that allow federal reimbursements for the emergency unemployment compensation program (EUC), temporarily provide full federal funding for extended benefits (EB), and allow states to make it easier to provide EB.

Additionally, enacting the bill would provide special distributions to the states in 2011 and 2012 totaling $31 billion, which states could use to continue to provide EUC and EB (as those programs existed on May 1, 2011), or pay for other unemployment-related expenses, including any interest due on loans from the unemployment trust fund (UTF).

Finally, H.R. 1745 would require states to reduce unemployment benefits to individuals who have received overpayments, require individuals to meet certain criteria for receipt of benefits, and direct the Department of Labor to establish uniform reporting codes.

CBO estimates that enacting H.R. 1745 would reduce outlays by $125 million in 2011 and by $3.1 billion over the 2011–2021 period. Under the bill, revenues also would decline by $3.1 billion over the 2011–2021 period. On balance, enacting H.R. 1745 would increase deficits by $4 million over the 2011–2021 period. Implementing the bill would not have a significant effect on discretionary spending.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

H.R. 1745 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1745 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	−125	−2,835	−15	−15	−15	−15	−15	−15	−15	−15	−15	−3,020	−3,095
Estimated Outlays	−125	−2,835	−15	−15	−15	−15	−15	−15	−15	−15	−15	−3,020	−3,095
CHANGES IN REVENUES													
Estimated Revenues	0	−47	−352	−798	−772	−568	−291	−208	−41	−11	−11	−2,537	−3,099
NET INCREASE OR DECREASE (−) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Estimated Impact on the Deficit	−125	−2,788	337	783	757	553	276	193	26	−4	−4	−483	4

Basis of estimate: For the purpose of this estimate, CBO assumes H.R. 1745 will be enacted by July 1, 2011. Later enactment could change the estimate significantly.

H.R. 1745 would repeal the federal funding for EUC for weeks of unemployment ending after July 6, 2011. In addition, H.R. 1745 would terminate temporary aspects of the EB program that extend 100 percent federal funding for that program and make it easier for states to meet the unemployment rate thresholds required to provide benefits.

Direct Spending

The bill would transfer $12.8 billion to states for fiscal year 2011 and $18.2 billion for fiscal year 2012. States could use those funds to operate EUC and EB as they existed in state agreements as of May 1, 2011. However, the total amount that would be transferred is about $0.6 billion lower than the amounts CBO projects states will spend on EUC and special EB under current law. (Under current law, EUC and the temporary EB provisions are authorized through December 2011; states may terminate agreements to provide EUC by giving 30 days' notice to the Department of Labor.) A state could use the transferred funds for other unemployment-related purposes, including paying interest due on loans from the UTF, but such changes would require state legislation.

CBO estimates that most states would continue to operate EUC and EB programs using their share of the total $31 billion in transfers that would be provided by H.R. 1745. However, CBO expects that some states would opt out of EUC, provide fewer benefits under EB, or change their laws to use a portion of the funds for other purposes. CBO estimates that such changes would decrease outlays for EUC and EB by $125 million in 2011 and $2.8 billion in 2012.

The bill also would direct states to offset overpayments of unemployment compensation by reducing benefits to individuals, harmonize job search requirements, and mandate recipients of unemployment compensation to meet a minimum education threshold (though that requirement could be waived in cases of hardship). CBO estimates those provisions would reduce outlays by about $15 million per year beginning in 2013.

Revenues

Provisions in H.R. 1745 would affect states' revenues for unemployment compensation, which are reflected on the federal budget. Lower outlays would result in higher balances in states' unemployment trust funds. In addition, beginning in July 2011, states would be able to receive a 50 percent match on expenses for EB, even if the states choose to fund their EB expenses with their share of the transferred funds. That provision also would result in higher balances in states' trust funds than under current law. CBO estimates that some states would respond to the higher balances by reducing their unemployment taxes (or by avoiding tax increases assumed in the baseline that would replenish the trust funds). As a result, CBO estimates that, on net, revenues would decline by $3.1 billion over the 2011–2021 period under H.R. 1745.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures

for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table. Under H.R. 1745, there would be no net impact for purposes of enforcing the Statutory Pay-As-You-Go Act because the bill would designate the bill's effects as an emergency requirement.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1745 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON MAY 11, 2011, WITH SUBSEQUENT LANGUAGE PROVIDED ON MAY 18, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET INCREASE OR DECREASE (−) IN THE DEFICIT													
Total change	−125	−2,788	337	783	757	553	276	193	26	−4	−4	−483	4
Less:													
Designated as Emergency Requirements [a]	125	2,788	−337	−783	−757	−553	−276	−193	−26	4	4	483	−4
Statutory Pay-As-You Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	0
Memorandum:													
Change in Outlays	−125	−2,835	−15	−15	−15	−15	−15	−15	−15	−15	−15	−3,020	−3,095
Change in Revenues	0	−47	−352	−798	−772	−568	−291	−208	−41	−11	−11	−2,537	−3,099

[a] Section 204 of H.R. 1745 would designate the budgetary effects of the bill as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

Intergovernmental and private-sector impact: H.R. 1745 contains no intergovernmental or private-sector mandates as defined in UMRA. CBO estimates that changes to the unemployment compensation program would result in lower federal transfers to the states than under current law and also would result in decreases in unemployment taxes in some states. These effects, however, would result from states' participation in the federal unemployment insurance program, which is voluntary, and would not result from intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal Spending: Christina Hawley Anthony; Federal Revenues: Barbara Edwards; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Sarah Axeen.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis; Frank Sammartino, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE OF REPRESENTATIVES

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee concluded that it was appropriate and timely to enact the sections included in the bill, as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes new or additional funding compared with the current law baseline, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the revenue provisions of the bill do not impose a Federal mandate on the private sector. The Committee has determined that the revenue provisions of the bill do not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Clause 5(b) of rule XXI of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the sections of the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provision of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

* * * * * * *

PROVISIONS OF STATE LAWS

SEC. 303. (a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) * * *

* * * * * * *

[(10) A requirement that, as a condition of eligibility for regular compensation for any week, any claimant who has been referred to reemployment services pursuant to the profiling system under subsection (j)(1)(B) participate in such services or in similar services unless the State agency charged with the administration of the State law determines—

[(A) such claimant has completed such services; or

[(B) there is justifiable cause for such claimant's failure to participate in such services.]

(10)(A) A requirement that, as a condition of eligibility for regular compensation for any week—

(i) a claimant shall meet the minimum educational requirements set forth in subparagraph (B); and

(ii) any claimant who has been referred to reemployment services shall participate in such services.

(B) For purposes of this paragraph, an individual shall not be considered to have met the minimum educational requirements of this subparagraph unless such individual—

(i) has earned a high school diploma;

(ii) has earned the General Educational Development (GED) credential or other State-recognized equivalent (including by meeting recognized alternative standards for individuals with disabilities); or

(iii) is enrolled and making satisfactory progress in classes leading to satisfaction of clause (ii).

(C) The requirements of subparagraph (B) may be waived for an individual to the extent that the State agency charged with the administration of the State law deems such requirements to be unduly burdensome in the case of such individual.

(11)(A) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.

(B) For purposes of this paragraph, the term "actively seeking work" means, with respect to any individual, that such individual is actively engaged in a systematic and sustained effort to obtain work, as determined based on evidence (whether in electronic format or otherwise) satisfactory to the State agency charged with the administration of the State law.

(C) The specific requirements that must be met in order to satisfy this paragraph shall be established by the State agency, and shall include at least the following:

(i) Registration for employment services within 14 days after making initial application for regular compensation.

(ii) Posting a resume, record, or other application for employment on such database as the State agency may require.

(iii) Applying, in such manner as the State agency may require, for work which is similar to that previously performed by the individual, and which offers wages comparable to wages for similar work in the local labor market in which the individual resides or is actively seeking work.

* * * * * * *

(g)(1) A State [may] *shall* deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

* * * * * * *

DEMONSTRATION PROJECTS

SEC. 305. (a) The Secretary of Labor may enter into agreements, with States submitting an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed—

(1) to expedite the reemployment of individuals who establish initial eligibility for unemployment compensation under the State law of such State; or

(2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the

Secretary of Labor. Any such application shall, at a minimum, include—

(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

(2) if a waiver under subsection (c) is requested, the specific aspects of the project to which the waiver would apply and the reasons why such waiver is needed;

(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

(4) assurances (accompanied by supporting analysis) that the demonstration project would not result in any increased net costs to the State's account in the Unemployment Trust Fund;

(5) a description of the manner in which the State—

(A) will conduct an impact evaluation, using a control or comparison group or other valid methodology, of the demonstration project; and

(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved; and

(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require.

(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or of paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

(d) A demonstration project under this section—

(1) may be commenced any time after the date of enactment of this section; and

(2) may not be approved for a period of time greater than 3 years, subject to extension upon request of the Governor of the State involved for such additional period as the Secretary of Labor may agree to, except that in no event may a demonstration project under this section be conducted after the end of the 5-year period beginning on the date of enactment of this section.

(e) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

(1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and

(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within such 30 days shall be deemed approved, and public notice of any approval under this sentence shall be provided within 10 days thereafter.

(f) The Secretary of Labor may terminate a demonstration project under this section if the Secretary makes a final determination that

the State has violated the substantive terms or conditions of the project.

* * * * * * *

TITLE IX—MISCELLANEOUS PROVISIONS RELATING TO EMPLOYMENT SECURITY

* * * * * * *

AMOUNTS TRANSFERRED TO STATE ACCOUNTS

SEC. 903. (a) * * *

* * * * * * *

Special Transfers in Fiscal Years 2011 and 2012

(h)(1) The Secretary of the Treasury shall transfer (as of the dates determined under paragraph (4)) from the extended unemployment compensation account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

(2)(A) The amount to be transferred to a State under this subsection in any fiscal year is the amount derived by multiplying the applicable total dollar amount for such fiscal year by the applicable fraction for such State.

(B) For purposes of subparagraph (A), the applicable total dollar amount is—

(i) for fiscal year 2011, $12,800,000,000; and

(ii) for fiscal year 2012, $18,200,000,000.

(C) For purposes of subparagraph (A), the applicable fraction for a State is a fraction—

(i) the numerator of which is the total amount of extended compensation and emergency unemployment compensation paid out by such State for weeks beginning in the 12-month period described in clause (ii); and

(ii) the denominator of which is the total amount of extended compensation and emergency unemployment compensation paid out by all States for weeks beginning in the most recent 12-month period for which that information is available for all States as of May 1, 2011.

(3)(A) Except as provided in subparagraph (B), amounts transferred to a State account pursuant to this subsection shall be used only in the payment of extended compensation and emergency unemployment compensation, in accordance with applicable provisions of Federal and State law (including agreements and implementing regulations) as in effect on May 1, 2011.

(B) A State may, pursuant to specific legislation enacted by the legislative body of the State after the date of enactment of the JOBS Act of 2011, use money transferred to the State account of such State under this subsection for (i) the payment of unemployment compensation, (ii) the repayment of advances made to such State under section 1201 (including interest thereon), and (iii) reemployment services designed to enhance the rapid reemployment of unemployed workers (such as mandatory workshops, claimant assess-

ments, resume preparation and job search assistance, wage subsidy programs, eligibility reviews, labor market information, development of a work-search plan, and training), if and only if—

(I) the purposes and amounts are specified in the law;

(II) the money is withdrawn and expended, for the purpose described in clause (i), (ii), or (iii) (as the case may be), after the date of enactment of the law; and

(III) the use of the money is accounted for in accordance with standards established by the Secretary of Labor.

(4) Transfers under this subsection shall—

(A) to the extent that they relate to the amount set forth in paragraph (2)(B)(i), be made within 10 days after the date of enactment of this subsection; and

(B) to the extent that they relate to the amount set forth in paragraph (2)(B)(ii), be made after September 30, 2011, and on or before October 10, 2011.

* * * * * * *

DATA STANDARDIZATION FOR IMPROVED DATA MATCHING

Standard Data Elements

SEC. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group established by the Office of Management and Budget, and considering State perspectives, shall, by rule, designate standard data elements for any category of information required under title III or this title.

(2) The standard data elements designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

(3) In designating standard data elements under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate—

(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

Data Standards for Reporting

(b)(1) The Secretary of Labor, in consultation with an interagency work group established by the Office of Management and Budget, and considering State government perspectives, shall, by rule, designate data reporting standards to govern the reporting required under title III or this title.

(2) The data reporting standards required by paragraph (1) shall, to the extent practicable—

(A) incorporate a widely-accepted, non-proprietary, searchable, computer-readable format;

(B) be consistent with and implement applicable accounting principles; and

(C) be capable of being continually upgraded as necessary.

(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Business Reporting Language.

* * * * * * *

TITLE XII—ADVANCES TO STATE UNEMPLOYMENT FUNDS

* * * * * * *

REPAYMENT BY STATES OF ADVANCES TO STATE UNEMPLOYMENT FUNDS

SEC. 1202. (a) * * *

(b)(1) * * *

(2) No interest shall be required to be paid under paragraph (1) with respect to any advance or advances made during any calendar year if—

(A) such advances are repaid in full before the close of September 30 of the calendar year in which the advances revere made, *and*

(B) no other advance was made to such State under section 1201 during such calendar year and after the date on which the repayment of the advances was completed**[**, and**]**.

[(C) such State meets funding goals, established under regulations issued by the Secretary of Labor, relating to the accounts of the States in the Unemployment Trust Fund.**]**

* * * * * * *

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle C—Employment Taxes

* * * * * * *

CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

* * * * * * *

SEC. 3304. APPROVAL OF STATE LAWS.

(a) REQUIREMENTS.—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) * * *

* * * * * * *

(4) all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds

paid in accordance with the provisions of section 3305(b); except that—

(A) * * *

* * * * * * *

(D) amounts [may] *shall* be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act;

* * * * * * *

[(8) compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work);]

(8) compensation shall not be denied to an individual for any week in which the individual is enrolled and making satisfactory progress in education or training which has been previously approved by the State agency;

* * * * * * *

SUPPLEMENTAL APPROPRIATIONS ACT, 2008

* * * * * * *

TITLE IV—EMERGENCY UNEMPLOYMENT COMPENSATION

FEDERAL-STATE AGREEMENTS

SEC. 4001. (a) * * *

* * * * * * *

[(g) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

[(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 (determined disregarding any additional amounts attributable to the modification described in section 2002(b)(1) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438)), will be less than

[(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on June 2, 2010.]

* * * * * * *

[PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

[SEC. 4003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment com-

pensation paid to individuals by the State pursuant to such agreement.

[(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

[(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.]

FINANCING PROVISIONS

SEC. 4004. (a) * * *

* * * * * * *

(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of—

(A) * * *

* * * * * * *

(F) the amendments made by section 2(a)(1) of the Unemployment Compensation Extension Act of 2010; [and]

* * * * * * *

(H) the amendment made by section 201 of the Jobs, Opportunity, Benefits, and Services Act of 2011; and

* * * * * * *

ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES ACT

* * * * * * *

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

* * * * * * *

Subtitle A—Unemployment Insurance

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SEC. 2005. FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

(a) IN GENERAL.—In the case of sharable extended compensation and sharable regular compensation paid for weeks of unemployment beginning after the date of the enactment of this section and before **[**January 4, 2012**]** *July 6, 2011*, section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall be applied by substituting "100 percent of" for "one-half of".

(b) SPECIAL RULE.—At the option of a State, for any weeks of unemployment beginning after the date of the enactment of this section and before **[**January 4, 2012**]** *the date of enactment of the JOBS Act of 2011*, an individual's eligibility period (as described in section 203(c) of the Federal-State Extended Unemployment Compensation Act of 1970) shall, for purposes of any determination of eligibility for extended compensation under the State law of such State, be considered to include any week which begins—

(1) * * *

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[(c) LIMITED EXTENSION.—In the case of an individual who receives extended compensation with respect to 1 or more weeks of unemployment beginning after the date of the enactment of this Act and before January 4, 2012, the provisions of subsections (a) and (b) shall, at the option of a State, be applied by substituting "ending before June 11, 2012" for "before January 4, 2012".**]**

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FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

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EXTENDED BENEFIT PERIOD

Beginning and Ending

SEC. 203. (a) * * *

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State On and Off Indicators.—

(d) For purposes of this section—

(1) * * *

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Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure "5" contained in subparagraph (B) thereof were "6"; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a State "off" indicator. Effective with respect to compensation for weeks of unemployment beginning after the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (or, if later, the date established pursuant to State law), and ending on or before [December 31, 2011] *June 30, 2011*, the State may by law provide that the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if the word "two" were "three" in subparagraph (1)(A). For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.

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Alternative Trigger

(f)(1) * * *

(2) Effective with respect to compensation for weeks of unemployment beginning after the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (or, if later, the date established pursuant to State law), and ending on or before [December 31, 2011] *June 30, 2011*, the State may by law provide that the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if the word "either" were "any", the word "both" were "all", and the figure "2" were "3" in clause (1)(A)(ii).

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DISSENTING VIEWS

We oppose H.R. 1745 because the legislation ends the current Federal guarantee of extended unemployment benefits for America's long-term unemployed. Jeopardizing the unemployment benefits of over four million Americans is the wrong path for our Nation, and it reneges on legislation Republicans agreed to less than six months ago to extend unemployment benefits in exchange for continuing tax cuts for the wealthy.

Under the policies adopted by Democrats in Congress and President Obama, our economy has *created* over two million new private sector jobs over the last 14 months. By comparison, during the last 14 months of President Bush's Administration, the Nation lost over 3.7 million private sector jobs. But even with this improvement, the job market remains tough for many Americans. There are still roughly 7 million fewer jobs in the economy today than when the "Great Recession" started in December 2007. Data from the Department of Labor shows there are about four and half unemployed individuals for every available job. Additionally, the long-term unemployment rate for the first four months of this year is at an historically high level, with over 44 percent of the jobless without work for at least six months.

During the markup of H.R. 1745, Members of the majority suggested the legislation does not encourage States to terminate unemployment benefits for Americans struggling to find work. However, the bill clearly allows States to divert up to $31 billion of Federal funds for extended unemployment benefits toward other purposes. As Labor Secretary Hilda Solis says in her letter opposing the legislation, "H.R. 1745 could end these crucial benefits by providing incentives for states to eliminate these benefit programs altogether."

The majority also suggested that the risk of unemployment funds being diverted is moderated by the fact some States have already ended their legislative sessions. Of course, these States could come back into special session to change their laws. Furthermore, a Governor could unilaterally end a State's participation in the Emergency Unemployment Compensation (EUC) program (without approval from the legislature) and wait for the next legislative session to reach agreement on how to spend the funds that have been diverted from paying extended unemployment benefits.

The legislation makes it clear that one of the purposes that States can divert Federal UI funds toward is paying all or a portion of any outstanding loan the State has received from the Federal Unemployment Trust Funds. We note that many proposals have been put forward to address solvency issues within the unemployment system, and we would have preferred a genuine effort to find bipartisan consensus on the issue. In this context, it is worth remembering that the Government Accountability Office (GAO) informed the Committee last year that State UI financing policies are a major factor behind their current insolvency problems. More specifically, GAO found, "Long-standing UI tax policies and practices in many States over 3 decades have eroded trust fund reserves, leaving States in a weak position prior to the recent recession." The report highlighted that "While [unemployment] benefits over the last 3 decades have remained largely flat relative to wages, employer tax rates have declined." In terms of restoring the solvency of the Federal Unemployment Trust Funds, H.R. 1745 fails to continue an expiring source of funding that has been in place for over 30 years and that has been routinely extended with bipartisan support.

We also believe it is important to recognize that unemployment benefits are not generous, with the average weekly benefit of $300 reaching only 70 percent of the poverty line for a family of four. Nevertheless, unemployment insurance remains the difference between hardship and destitution for millions of workers who have lost their jobs through no fault of their own. Over four million jobless workers now depend on Federal unemployment insurance and the legislation ends the assurance that their benefits will continue. Furthermore, the bill repeals a protection that prevents States from cutting the cash amount of regular unemployment benefits when participating in the EUC program. We also are concerned about proposals that tie eligibility to education and training at a time when the majority's budget proposals slash funding for education, job training and employment services.

Finally, while the majority calls H.R. 1745 a jobs bill, the legislation has nothing to do with creating jobs. In fact, by diverting money from unemployment benefits to purposes with less economic impact, the legislation could cost American jobs. An analysis by the Economic Policy Institute points out that if every State used the unemployment funds for debt repayment or trust fund solvency instead of continuing extended benefits, 322,000 jobs could be lost due to the decline in economic activity associated with the expenditure of UI benefits. Of course, if only some States pursued that course, the negative impact would be smaller, but there could still be a harmful effect on job growth.

We therefore oppose H.R. 1745 as a bill that could negatively impact job creation, hurt unemployed Americans, and take the wrong step in addressing long-term solvency for the Unemployment Insurance system. The Republican majority should refrain from blaming the unemployed for unemployment and join with us in working to continue to create jobs.

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